

Remarks

Claims 1, 8, 10-26 and 28-32 are pending in the application. In this amendment, Claim 1 has been amended to provide proper antecedent basis. No new matter has been added.

1. Claims 1, 8, 10-26 and 28-32 Are Not Anticipated Nor Rendered Obvious By Stiffler, US Patent No. 2,957,503.

In the most recent action, the examiner rejected Claims 1, 8, 10-26 and 28-32 under Section 102(b) or, in the alternative 35 U.S.C. 103(a) over Stifter (USP 2,957,503). Applicant respectfully traverses each and every aspect of this rejection.

Stifter's pill dispenser is operated by two distinct steps, the first by the filling step where "the cap **22** is first removed and inverted and the tubular member **20** with its open mouth **21** directed downwardly, is forced downwardly into and through the diaphragm cap **14**, .." where the inverted cap is filled with pills (see Stifter, column 2, lines 64-67). The second step occurs when "the container **11** is inverted ... the cap **22** is withdrawn downwardly as shown in Figure 4, the socket member **20** will have the predetermined number of pills therein .." (see column 2, line 69 to column 3, line 1).

As the examiner will appreciate, for anticipation under 102(b), a reference must disclose not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim.

Keeping this in mind, Stiffler does not anticipate Claims 1, 8, 10-26 and 28-32. Specifically, Stifter's dispenser clearly does not teach Applicant's dispenser in that Applicant's claim an actuator having a nozzle, said nozzle protrudes from the dispensing mechanism forming a dispensing end and is displaceable into the dispensing mechanism providing the outlet opening.

In Stifter, one end of the diaphragm cap **22**, which forms the cup that will hold the pills, is solid. As such, it is impossible that Stifter can have a dispensing end providing the outlet opening. , In fact, Stifter describes the diaphragm cap, wherein “the cap **22** normally covers the and encloses the cap **14** with the tubular socket member having its open end **21** upwardly” (see column2, lines 60-62). In view of Stiffler, not only are the claimed elements not disclosed as claimed, but Stifter would demotivate one of ordinary skill from adopting the arrangement of Applicant’s have claimed.

Turning then to the Examiner’s assertion that Stiffler renders the claimed subject matter obvious, again Applicant respectfully traverses each and every aspect of this rejection. As the examiner is aware, where a reference discloses less than all of the claimed elements, an examiner may only rely on 35 U.S.C. §103(a). In an obviousness inquiry, the prior art is compared to the invention as *claimed*.

One of ordinary skill, reading Stiffler would not view the present invention as obvious. Stifter does not disclose the elements of Claim 1, as discussed in the above section, nor is the subject matter of Claim 1 suggested to one of ordinary skill by Stifter. In addition to the discussion above, Applicant’s invention is further non-obvious over Stifter with Stifter providing no suggestion, teachings or motivations to arrive at Applicant’s invention. Applicant’s device is adapted to dispense a predetermined number of said unit products through the outlet opening per actuation. As described in the previous section, Stifter’s device may be capable of collecting a predetermined number of pills but it is clearly not capable of simultaneously dispensing to the user anything upon actuation of the outlet opening as the diaphragm cap **22** of Stifter has a solid base incapable of passing any object. Any dispensing from the Stifter device occurs after the actuation of the outlet opening. Furthermore, Applicant’s device further claims that the dispensing mechanism is actuatable by pushing the dispenser into the palm of the user. If this is read onto Stifter’s device, wherein it is dispensing

tablets, one would be pressing the open end **21** of the diaphragm cap **22** into the palm of ones hand which would clearly not actuate anything in Stifter.

Stifter fails to teach each limitation of Claim 1, and motivates away from the approach claimed by the applicants. As such, Stiffler cannot anticipate nor render obvious Claim 1. As Stiffler neither anticipates nor renders obvious Claim 1, it cannot as a matter of law render the claims directly or indirectly dependent on Claim 1 unpatentable. For this reason alone, Claims 8, 10-26 and 28-32 are patentable over Stiffler.

Conclusion

As Applicant's claimed invention is novel and not obvious over Stiffler, Applicant respectfully requests the withdrawal of the instant 102 and 103 rejections, and the subsequent allowance of Claims 1, 8, 10-26 and 28-32.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sect 1.16 or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392.

Applicants respectfully submit that the instant application is in condition for allowance, which action is respectfully requested. The Examiner is invited to contact the undersigned at (919) 483-9995, to discuss this case, if desired.

Respectfully submitted,

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